

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-20519

AMAR SLIWO (D-2),

Hon. AVERN COHN

Defendant.

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MEMORANDUM AND ORDER
DENYING MOTION FOR BOND PENDING APPEAL

On January 29, 2009, the Court sentenced defendant to a 60 month custody on his jury conviction of Conspiracy to Distribute 100 Kilograms or More of Marijuana, 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B)(vii), and Possession With Intent to Distribute 100 Kilograms or More of Marijuana, 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(vii). The Court denied defendant's Motion for Judgment of Acquittal on December 16, 2008 (Doc. 107) and defendant's Motion for Reconsideration on January 13, 2009 (Doc. 111). On January 30, 2009, defendant appealed (Doc. 118). Now before the Court is defendant's motion for bond pending appeal (Doc. 113). The motion is DENIED.

While 18 U.S.C. § 3143(b)(2) requires detention of defendant, 18 U.S.C. § 3145(c) allows for bond pending appeal "if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate." As stated in United States v. DiSomma, 951 F.2d 494, 497 (2d Cir. 1991): "Neither the statute nor case law defines the circumstances which may qualify as exceptional reasons permitting release. The legislative

history on the issue is sparse and uninformative.”

As the Court understands defendant’s grounds on appeal, the sufficiency of the evidence issue in this case is debatable and close, and the possibility exists that defendant can prevail on appeal.

These grounds may raise a substantial question. However, a substantial question is not the same as exceptional circumstances. Something more is required. What is necessary is that the substantial question include “one or more remarkable and uncommon factors, to support a finding of exceptional reasons for the inappropriateness of detention.” Id. Such is not the case here. This is why the motion for bond pending appeal has been denied.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 10, 2009

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 10, 2009, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160